

**IN THE UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TENNESSEE**

**IN RE: EMMITT PASCAL BOWENS,  
DEBTOR**

**CASE NO.: 11-23088  
CHAPTER 7  
HONORABLE GEORGE W. EMERSON, JR.**

**ALLY FINANCIAL, INC. f/k/a GMAC PLAINTIFF**

**VS**

**ADVERSARY PROCEEDING NO. \_\_\_\_\_**

**EMMITT PASCAL BOWENS DEFENDANT**

**COMPLAINT TO OBJECT TO DISCHARGE**

Comes now Ally Financial, Inc, f/k/a GMAC (Ally) Plaintiff creditor, and shows the Court as follows:

1. Debtor filed a petition for relief under Chapter 7 of the Bankruptcy Code on March 24, 2011.
2. This is a core proceeding pursuant to 28 U.S.C §157(b)(2)(J). Venue is proper under 28 U.S.C. §1409(a).
3. On or about June 20, 2007 Debtor entered into and executed a Retail Installment Sale Contract to finance the purchase of a 2007 Chevrolet Avalanche bearing VIN 3GNEC12057G306608. Subsequent thereto the Debtor defaulted on the terms of the aforesaid Retail Installment Sale Contract by failing to make the payments which he was obligated to pay and

failing to furnish evidence of physical damage insurance upon the aforescribed vehicle. A copy of said contract is attached hereto as Exhibit "A".

4. Ally f/k/a GMAC perfected its security in the described vehicle by endorsement upon the Certificate of Title issued by the State of Tennessee, a copy of which is attached hereto as Exhibit "B".

5. On or about January 21, 2011 Ally filed a complaint in replevin in the County Court of Desoto County, Mississippi seeking to recover the aforescribed vehicle. All attempts to locate the Debtor Defendant for service of process or to locate the subject vehicle were unsuccessful.

6. Subsequent to the filing of the replevin action and while efforts were being made to locate the Debtor Defendant or the vehicle the Defendant filed his petition in bankruptcy.

7. Subsequent to the filing of the bankruptcy petition by the Debtor in this cause efforts have further been made through Debtor's counsel to ascertain the location of the aforescribed vehicle, all without success.

8. Plaintiff asserts that the Debtor should be denied a discharge pursuant to the provisions of 11 U.S.C. §727(a)(2) because the Debtor has transferred, removed, destroyed, concealed or has permitted the same to be done with the collateral pledged to Ally. Further the Debtor should be denied a discharge pursuant to 11 U.S.C. § 727(a)(5) in that he has failed to satisfactorily explain the loss of the asset which was pledged as security to Ally.

WHEREFORE, Ally prays that the Debtor be denied discharge and for such other relief as may be lawful and proper in the premises.

Respectfully submitted,

/s/ EARL C. BUCKLES

**EARL C. BUCKLES** TN Bar No. \_\_\_\_\_  
45 N. Third Street, Suite 104  
Memphis, Tennessee 38103  
Phone: (901) 522-0048 Email: earlcbuckles@bellsouth.net

/s/ JOSEPH C. GIBBS

**JOSEPH C. GIBBS** MS Bar No. 4814  
Post Office Box 1117 - 111 Court Street  
Clarksdale, Mississippi 38614 - 1117  
Phone: (662) 627-4146 Email: jcglaw@bellsouth.net  
Attorneys for Plaintiff

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing electronically filed Complaint to Object to Discharge was served on the parties listed below by first-class mail, postage prepaid, unless said party is a registered CM/ECF participant who has consented to electronic notice, and the Notice of Electronic filing indicates that Notice was electronically mailed to said party:

**DAVID SANDY** TN Bar No. 024692  
Phone: (901) 255-2740 Email: attorney@mymemphislawyer.com  
Attorney for Debtor

**BETTYE SUE BEDWELL** TN Bar No. \_\_\_\_\_  
Phone: (901) 577-0009 Email: \_\_\_\_\_  
Chapter 7 Bankruptcy Trustee

**OFFICE of the U. S. TRUSTEE**  
One Memphis Place  
200 Jefferson Avenue, Suite 400  
Memphis, Tennessee 38103

Mr. Emmitt Pascal Bowens  
275 Chesterman Street  
Holly Springs, Mississippi 38635  
Debtor

Dated this the \_\_\_\_\_ day of June, 2011.

/s/ Earl C. Buckles

/s/ Joseph C. Gibbs

RETAIL INSTALLMENT SALE CONTRACT  
SIMPLE FINANCE CHARGE

Buyer (and Co-Buyer) Name and Address (including County and Zip Code) **EMMET BOWEN**  
194 PHILLIPS ST  
HOLLY SPRINGS, MS 38635

Contract Number **059116143106**  
Date **JUN 28 2007**

Creditor - Seller (Name and Address) **ALL MORGAN CHEVROLET INC.**  
COLLIERVILLE, TN 38017

You, the Buyer (and Co-Buyer, if any), may buy the vehicle below for cash or on credit. By signing this contract, you choose to buy the vehicle on credit. Under the terms of this contract, you agree to pay the Seller (sometimes "we" or "us" in this contract) the Amount Financed and Finance Charge according to the payment schedule below. We will figure your finance charge on a daily basis. The Truth-in-Lending Disclosure below is part of this contract.

Year Used	Year	Make and Model	Vehicle Identification Number	Primary Use For Which Purchased
NEW	2007	CHEVROLET AVALANCHE	3GMEC126576386508	<input checked="" type="checkbox"/> personal, family or household <input type="checkbox"/> business <input type="checkbox"/> agricultural

FEDERAL TRUTH-IN-LENDING DISCLOSURES				
ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments	Total Sale Price
The cost of your credit as a yearly rate	The dollar amount the lender will cost you	The amount of credit provided to you or on your behalf	The amount you will have paid after you have made all payments as scheduled	The total cost of your purchase on credit, including your down payment
7.99 %	\$ 14,289.61	\$ 54,348.79	\$ 68,638.40	\$ 71,638.40

Your Payment Schedule Will Be:

Number of Payments	Amount of Payments	When Payments Are Due
72	\$933.20	Monthly beginning 06/04/2007

Or As Follows

Life Charge: If payment is not received in full within 10 days after it is due, you will pay a late charge of \$ 100 or 5 % of the part of the payment that is late, whichever is greater.

Prepayment: If you pay off all your debt early, you will not have to pay a penalty.

Security Interest: You are giving a security interest in the vehicle being purchased.

Additional Information: See this contract for more information including information about nonpayment, default, any required payment at full before the scheduled date and security interest.

RECAPITULATION OF AMOUNT FINANCED

1. Cash Price (including tax) **\$ 53,220.34** (1)

2. Total Downpayment =

Year	Make	Model
N/A	N/A	N/A

Gross Trade-In Allowance \$ N/A

Less Pay Off Trade-In By Seller \$ N/A

Equals Net Trade-In \$ N/A

+ Cash \$ 38,235.88

+ Other \$ N/A

(If total downpayment is negative, enter "0" and see 4(f) below) **\$ 38,235.88** (2)

3. Unpaid Balance of Cash Price (1 minus 2) **\$ 14,984.46** (3)

4. Other Charges Including Amounts Paid in Others on Your Behalf (Seller may keep part of these amounts)

A. Cost of Optional Credit Insurance Paid to Insurance Company or Companies

Life	Disability	Other
\$ N/A	\$ N/A	\$ N/A

B. Vendor's Single Interest Insurance Paid to Insurance Company \$ N/A

C. Other Insurance Paid to the Insurance Company \$ 599.88

D. Other Fees Paid to Government Agencies \$ N/A

E. Government Fees Not Included in Cash Price \$ 38.18

F. Government License and/or Registration Fees \$ 166.58

G. Government Certificate of Title Fee \$ 15.88

H. Other Charges (Seller must clearly state in part and describe purpose)

Bill, Rental, Processing Fee	Service Charge	Other
\$ 399.95	\$ N/A	\$ N/A
\$ 3826.88	\$ N/A	\$ N/A
\$ N/A	\$ N/A	\$ N/A

Total Other Charges and Amounts Paid in Others on Your Behalf **\$ 4,120.45** (4)

5. Amount Financed (3 + 4) **\$ 54,348.79** (5)

Insurance: You may buy the physical damage insurance that covers the vehicle (see back) from anyone you choose who is acceptable to us. You are not required to buy any other insurance to obtain credit unless the law indicates otherwise. Single interest insurance as required is checked below. Your decision to buy or not to buy other insurance will not be a factor in the credit approval process.

If any insurance is checked below, policies or certificates from the named insurance companies will describe the terms and conditions.

Check the insurance you want and sign below:

Optional Credit Insurance

☐ Credit Life ☐ Buyer ☐ Co-Buyer ☐ Both

☐ Credit Disability (Buyer Only)

Premium \$ **N/A**

Insurance Company Name **N/A**

Home Office Address **N/A**

Credit life insurance and credit disability insurance are not required to obtain credit. Your decision to buy or not to buy credit life insurance and credit disability insurance will not be a factor in the credit approval process. They will not be provided unless you sign and agree to pay the cost. If you choose this insurance, the cost is shown in Item 4A of the Recapitulation of Amount Financed. Credit life insurance is based on your original payment schedule. This insurance may not pay all you owe on the contract if you make late payments. Credit disability insurance does not cover any increase in your payment or in the number of payments. Coverage for credit life insurance and credit disability insurance ends on the original due date for the last payment unless a different term for the insurance is shown below.

Other Insurance

☒ GAP **72**

Type of Insurance **Term**

Premium \$ **399.88**

Insurance Company Name **FCBP**

Home Office Address

Signatures:

**EMMET BOWEN** Buyer Signature

**EMMET BOWEN** Co-Buyer Signature

**ALL MORGAN CHEVROLET INC.** Creditor Signature

☐ VENDOR'S SINGLE INTEREST INSURANCE (VSI) means: If the preceding has been checked, the Creditor requires VSI insurance for the term of the contract to protect the Creditor for loss or damage to the vehicle (including, but not limited to, theft or damage to the vehicle or the Creditor's sole property). The insurance does not protect your interest in the vehicle. You may choose the insurance company through which the VSI insurance is obtained. If you elect to purchase VSI insurance through the Creditor, the cost of this insurance is \$ 599.88 and is also shown as Item 4C of the RECAPITULATION OF AMOUNT FINANCED. The coverage is for the full term of the contract.

Referral Check Charge: You agree to pay a charge of \$ 30.00 if any check you give to us is dishonored.

OPTION ☐ You pay no finance charge if the amount financed, item 5, is paid in full on or before \_\_\_\_\_, Year \_\_\_\_\_ SELLER'S INITIALS \_\_\_\_\_

**NO COOLING OFF PERIOD**  
State law does not provide for a "cooling off" or cancellation period for this sale. After you sign this contract, you may only cancel it if the seller agrees or for legal cause. You cannot cancel this contract simply because you change your mind. This notice does not apply to home solicitation sales.

**The Annual Percentage Rate may be negotiable with the Seller. The Seller may assign this contract and retain its right to receive a part of the Finance Charge.**

**HOW THIS CONTRACT CAN BE CHANGED:** The contract contains a binding agreement between you and us relating to this contract. Any change to this contract must be in writing, and we must sign it. No oral changes are binding. Buyer Signs **EMMET BOWEN** Co-Buyer Signs **EMMET BOWEN**

If any part of this contract is not valid, all other parts stay valid. We may delay or return from enforcing any of our rights under this contract without losing them. For example, we may extend the time for making some payments without extending the time for making others. See back for other important agreements.

**NOTICE TO RETAIL BUYER:** Do not sign this contract in blank. You are entitled to a copy of the contract at the time you sign. Keep it to protect your legal rights.

You agree to the terms of this contract. You confirm that before you signed this contract, we gave it to you, and you were free to take it and review it. You confirm that you received a completely filled-in copy when you signed it.

Buyer Signs **EMMET BOWEN** Date **06/28/07** Co-Buyer Signs **EMMET BOWEN** Date **06/28/07**

Co-Buyer and Other Claims - A co-buyer is a person who is responsible for paying the entire debt. An other claim is a person whose name is on the title to the vehicle but does not have to pay the debt. The other claim agrees to the security interest in the vehicle given to sign this contract.

Other owner signs here **X**

Seller signs in the space to **ALL MORGAN CHEVROLET INC.** Date **06/28/07**

Seller assigns to or retains in this contract to **SPAC** (Assignor) under the terms of Seller's agreement(s) with Assignee

☐ Assigned with recourse ☒ Assigned without recourse ☐ Assigned with limited recourse

**ALL MORGAN CHEVROLET INC.** Date **06/28/07**

ALL MORGAN CHEVROLET INC. 1000 N. 10th St., Suite 100, Collinsville, TN 38017

EXHIBIT "A"

ORIGINAL LENDER

VEHICLE IDENTIFICATION NUMBER  
**3GNEC12057G306608**

YEAR MAKE MODEL BODY TYPE TITLE NUMBER  
**07 CHEV AVA UT 76562621**

DATE OF FIRST SECURITY INTEREST **06-20-2007**

GMAC  
PO BOX 8102  
COCKEYSVILLE MD 21030  
FIRST LIEN RELEASED BY

SIGNATURE

RELEASE DATE

GMAC  
PO BOX 8102  
COCKEYSVILLE MD 21030

STATE OF TENNESSEE  
DEPARTMENT OF REVENUE

000079

STATE OF TENNESSEE							
VERIFY THE AUTHENTICITY OF THIS MULTI-TONE DOCUMENT. BACKGROUND AREA CHANGES COLOR GRADUALLY FROM TOP TO BOTTOM.							
CERTIFICATE OF TITLE							
VEHICLE IDENTIFICATION NUMBER	YEAR	MAKE	MODEL	BODY TYPE	TITLE NUMBER		
3GNEC12057G306608	07	CHEV	AVA	UT	76562621		
NEW	USED	DEMO	PREVIOUS TITLE NO	PREV STATE	SALES OR USE TAX	CO	ODOMETER
X			MSO	FL	\$3750.05	79	11
PREV OTHER TITLE ST:		FL					
DATE TITLE ISSUED		07-30-2007		REMARKS			
DATE VEHICLE ACQUIRED		06-20-2007		ACTUAL MILEAGE			
ORTHER BOWEN OR EMMET BOWEN 38118 SUMNERS WELL MEMPHIS, TN 38118							
SATISFACTORY PROOF OF OWNERSHIP HAVING BEEN SUBMITTED UNDER TENNESSEE CODE ANNOTATED, 55-3-101, TITLE TO THE MOTOR VEHICLE DESCRIBED ABOVE IS VESTED IN THE OWNER'S NAME HEREIN. THIS OFFICIAL CERTIFICATE OF TITLE IS ISSUED FOR SAID MOTOR VEHICLE.							
FIRST LIEN RELEASED BY							
SIGNATURE		RELEASE DATE					
DATE OF FIRST SECURITY INTEREST		06-20-2007					
GMAC PO BOX 8102 COCKEYSVILLE MD 21030							
4105833							
THE ORIGINAL DOCUMENT HAS A WHITE REFLECTIVE WATERMARK ON THE BACK. HOLD AT AN ANGLE TO SEE THE MARK.							
STATE OF TENNESSEE							

EXHIBIT "B"